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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,928	09/30/2003	Hideyuki Shimomura	27A 3478	5148
3713	7590	06/17/2005	EXAMINER	
KODA & ANDROLIA 2029 CENTURY PARK EAST SUITE 1140 LOS ANGELES, CA 90067			FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,928

Applicant(s)

SHIMOMURA, HIDEYUKI

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d) (1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "connected to flanges" subject matter set forth in claim 1 could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).
2. Claims 1, 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is unclear as to whether the "valve mechanism" is intended to be part of the claimed combination since structure of the "seal structure" is defined as being connected thereto (lns. 4-6), but no positive structural antecedent basis therefor has been defined. Claims 3 and 4 are similarly indefinite.

Applicant did not substantively address this rejection in the response filed May 09, 2005.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fye.

The Fye reference (Figs. 4 and 5) discloses a seal structure comprising: a metal seat ring 34'; and a valve mechanism including a main body 12 "connected to flanges" 30/35 and having a flow channel 14, and a plate 16, as claimed.

Applicant argues at page 5 of the response Fye does not disclose a removable metal seal. However, this statement apparently ignores the disclosure at column 4, lines 12-37, in Fye which clearly discloses such subject matter.

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Grove et al.

The Grove et al. (Grove) reference (Figs. 5-7) discloses a seal structure comprising: a metal (material cross-hatching) seat ring 112; a valve mechanism/knife gate including a main

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body 91 "connected to flanges" 92/93 and having a flow channel (defined by 92,93), and a plate 94; a set ring 111; and elastomeric ring sheets 114,122, as claimed.

Applicant argues at page 5 of the response Grove "does not disclose each and every element of Applicant's invention as claimed," but fails to indicate an element that is not disclosed thereby. This argument is therefore unsubstantiated.

6. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fye and Vanderburg.

The Fye reference (Figs. 1-3) discloses a seal structure comprising: a seat ring 34 including a flange 36; a valve mechanism/knife gate including a main body 12 "connected to flanges" 30/32 and having a flow channel 14 and a step-like portion 66 with a first wall 74 and a second vertical wall (at 40), and a plate 16; a set ring 50; and a second elastomeric ring sheet 62. The seat ring 34 is preferably non-metal (col. 3 lns. 5-6), however, Fye also teaches it is sometimes preferable to construct such seals of metal (col. 4 lns. 36-37). Therefore, Fye teaches all claimed elements except for the provision of a first elastomeric ring sheet.

Although the seal structure of the Fye valve does not include a first elastomeric ring sheet, as claimed, attention is directed to the Vanderburg reference which discloses an

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analogous valve which further includes multiple elastomeric ring sheets (abs. lns. 7-9). Therefore, in consideration of Vanderburg, it would have been obvious to one of ordinary skill in the art to associate a first elastomeric ring sheet with the Fye valve in order to facilitate sealing. Furthermore, note the vertical wall 36 taught by Vanderburg.

In the response, applicant does not appear to have addressed Figs. 1-3 of Fye, nor the clear teaching in Vanderburg of providing an elastomeric ring sheet.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fye and Vanderburg as applied to claim 4 above, and further in view of Sparks.

Although the seal structure of the Fye valve does not include a seal packing, as claimed, attention is directed to the Sparks reference (Fig. 1) which discloses an analogous valve which further includes a seal structure (Fig. 2). Therefore, in consideration of Sparks, it would have been obvious to one of ordinary skill in the art to associate a seal structure with the Fye valve in order to facilitate sealing.

Applicant argues at page 5 of the response "Sparks does not disclose a seal packing in the sense of Applicant's invention or for the purpose of Applicant's invention." However, applicant has neither indicated why the seal packing taught by Sparks is

not the same as that in applicant's invention, nor pointed to any disclosure supporting a "purpose" for applicant's seal packing other than that inherent in the Sparks disclosure.

8. Applicant's remarks have been fully considered and have been previously addressed.

9. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

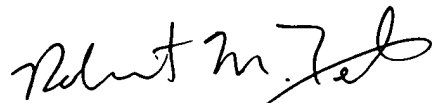
10. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", with a stylized flourish at the end.

Robert M. Fetsuga
Primary Examiner
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